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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/084,795

02/25/2002

Daniel C. Ziegler

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05/03/2006

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EXAMINER

A, PHI DIEU TRAN

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/084,795

Applicant(s)

ZIEGLER ET AL.

Examiner

Phi D. A

Art Unit

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-9,16 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-9,16 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

In view of the Appeal Brief filed on 10/24/05, PROSECUTION IS HEREBY REOPENED. The rejection to the claims are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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“Up-lift classification of at least 90” is indefinite as it is unclear what lifting force is being claimed, and the standard of test is subject to change. Also, the specification is unclear what mathematical formula is used to calculate testing force.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Carraro et al (4723749).

Carraro et al shows a support member comprising a main runner (76) having a vertical web and a bulb portion (77), a compression strut (30), a clip (75) comprising a first leg (the leg at 80, figure 5) a second leg 975), a mid portion (the bulging portion), the first leg is in direct contact with and is secured to the vertical web of the main runner, the second leg is in direct contact with and is secured to the compression strut, the mid portion disposed between the first leg and the second leg and is shaped to conform to the bulb portion of the main runner, the bulb portion (77) in interposed between the compression strut and the mid portion of the clip.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 8, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749) in view of Pinquist (4905952).

Carraro et al shows a system comprising a main runner (76), each main runner having a vertical web and a bulb portion (77), a compression strut (30), a clip (figure 5), each clip having a first leg, a mid portion disposed between the first leg and the second leg (75), each first leg is in direct contact with and is secured to the vertical web of the main runner, each second leg is in direct contact with and is secured to the compression strut (inherently so as it is connected) and each mid-portion conforms to the bulb portion of a main runner, the bulb portion being interposed between the compression strut and the mid-portion, the first leg (figure 5 at 80) is secured to the main runner by a first fastening device selected from the group consisting of mechanical fastening devices and the second leg is secured to the compression strut (30) by a second fastening device selected from the group consisting of chemical device (material).

Carraro et al does not show a grid formed from a plurality of parallel extending main runners, and a plurality of cross runner extending between the main runners, a plurality of compression struts, a plurality of panels within the grid, a plurality of clips.

Pinquist shows a ceiling system comprising grid (figure 1) formed from a plurality of parallel extending main runners (21), and a plurality of cross runners (the ones perpendicular to the main runners) between the main runners, a plurality of compression struts (27), a plurality of panels (23) within the grid, a plurality of clips 42).

It would have been obvious to one having ordinary skill in art at the time of the invention to modify Carraro et al's structure to show a grid formed from a plurality of parallel extending main runners, and a plurality of cross runner extending between the main runners, a plurality of compression struts, a plurality of panels within the grid, a plurality of clips because it would allow for easy supporting of a ceiling systems formed of a grid formed from a plurality of

parallel extending main runners and a plurality of cross runner extending between the main runners as taught by Pinguist.

Per claim 8, Carraro et al as modified shows the plurality of panels being downwardly accessible.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749) in view of Pinguist (4905952).

Carraro et al as modified shows all the claimed limitations except for the system being capable of meeting an up-lift classification 90.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Carraro et al's modified structure to show the system being capable of meeting an up-lift classification 90 because it would have been obvious to a designer to make the system as strong as needed to withstand strong uplifting force generated by strong winds, hurricane, and other elemental factors, and the strengthening of the system can be easily accomplished by thickening the material, or by providing strong material.

4. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749) in view of Pinguist (4905952).

Carraro et al as modified shows all the claimed limitations except for the struts being attached to the runners by the clips at an interval of about 2 feet or at an interval of up to about 12 feet..

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Carraro et al's modified structure to show the struts being attached to the runners by the clips at an interval of about 2 feet or at an interval of up to about 12 feet because it

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would have been an obvious matter of engineering design choice to attach the struts to the runner at intervals of 2 feet or 12 feet as it is up to the designer to choose the desired fastening forces between the struts and the runners for supporting the ceiling.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carraro et al (4723749).

Carraro et al shows all the claimed limitations except for the system being capable of meeting an up-lift classification 90.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Carraro et al's structure to show the system being capable of meeting an up-lift classification 90 because it would have been obvious to a designer to make the system as strong as needed to withstand strong uplifting force generated by strong winds, hurricane, and other elemental factors, and the strengthening of the system can be easily accomplished by thickening the material, or by providing strong material.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 5-9, 16, 22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different ceiling system device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

4/28/06

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

